

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State/Territory: North Carolina

ELIGIBILITY CONDITIONS AND REQUIREMENTS

Process for Investigations of Complaints and Monitoring

The State has in effect the following process for investigating complaints of violations of requirements by nursing facilities and monitors onsite on a regular, as needed basis, a nursing facility's compliance with the requirements of subsection (b), (c), and (d) for the following reasons:

- (i) the facility has been found not to be in compliance with such requirements and is in the process of correcting deficiencies to achieve such compliance;
- (ii) the facility was previously found not to be in compliance with such requirements and has corrected deficiencies to achieve such compliance, and verification of continued compliance is indicated; or
- (iii) the State has reason to question the compliance of the facility with such requirements.

(See attached.)

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OPERATIONAL POLICIES AND PROCEDURES
FOR PROCESSING AND INVESTIGATING COMPLAINTS

PURPOSE:

To establish a quality control policy to assure that all complaints are appropriately investigated and reported in accordance with approved procedures; thus assuring uniform handling of complaints regarding licensed and certified facilities.

POLICY:

The Branch Head or her designee is responsible for assuring that all complaints are properly recorded and investigated, within forty-five (45) days and a response sent to the complainant and all involved parties within sixty (60) days from the receipt of the complaint.

Complaints concerning care, treatment, or services at licensed health care facilities and which are within the jurisdiction of the Division of Facility Services (DFS) Licensure Section will be accepted for investigation. Each complaint will be assessed to determine the type investigation required. Allegations which are not within the jurisdiction of the Licensure Section will be referred to the proper agency/office.

When complainants indicate that they have not attempted to resolve concerns with facility management, they will be encouraged to

do so. If complainants are unable to achieve a satisfactory resolution with facility management, a complaint will be accepted for investigation by the Complaints Investigation Branch (CIB).

Anonymous complaints will be accepted.

Confidentiality will be maintained of all known complainants and all medical records inspected. When complaint files are reviewed by the public, all confidential information will be removed from the file prior to the review in accordance with G.S. 131E-105 and G.S. 131E-124(C).

PROCEDURE:

Complaints will be accepted by telephone, mail, or office visits by the complainant or by referral from other agencies.

A. Telephone complaints will be taken by CIB Staff.

Complaints will be entered on a complaint information form (attached).

B. Appointments will be scheduled for complainants who wish to lodge their complaint in person. These complaints will be entered on a complaint information form.

C. When complainants have not attempted to resolve their concerns with facility management but indicate willingness to do so, a report for record will be complete following the initial contact; and arrangements made for recontact with the complainant within one week to determine the facility's response to concerns. When facili-

response has been unsatisfactory to the complainant, a complaint will be recorded for investigation by the CIB during the second contact. If complainants have any hesitancy in talking with facility management, a complaint will always be taken during the initial contact.

- II. Upon receipt, complaints are directed to the Branch Head or her designee who will:
- A. Review the complaint.
 - B. Label the complaint with the complaint category(ies).
 - C. Write a letter to the complainant acknowledging receipt of the complaint.
 - D. Decide whether all or portions of the complaint should be referred to other agencies/groups, etc.
 - 1. Complaints alleging abuse, neglect, or exploitation of a specifically named patient are immediately referred to the County Department of Social Services, Adult Protective Services, in accordance with the agreement between Division of Facility Services and Division of Social Services. In accordance with G.S. 108A-103 the Division of Social Services (DSS) will make "a prompt and thorough evaluation to determine whether the individual is in need of protective services." When in the course of the DSS investigation it becomes apparent that the abuse, neglect, or exploitation will be substantiated, the county DSS director will immediately notify DFS by phone. The CIB will assess data from the DSS to determine

whether there is an on-going and current threat to the patient's health and safety, and if so, the CIB will investigate the situation within two working days.

2. Assistance may be requested from Nursing Home Community Advisory Committees (NHCAC) when allegations are of a general nature and do not require special, professional expertise for investigation. The Branch Head will contact the Division of Aging Regional Ombudsman to determine if the NHCAC is capable of investigating the specific complaint and able to provide the requested assistance.
3. If referrals are made, a note to this effect is made on the complaint form indicating the date of referral and to whom it was referred.

III. Following initial review, the Branch Head will send complaints to the branch Administrative Assistant who will:

- A. Assign a complaint number.
- B. Enter the complaint on the complaint log.
- C. Prepare a folder and large envelope labeled with the facility name and location and the complaint number, and the date of 45th day following receipt.
- D. Type and mail the acknowledgement letter to the complainant.
- E. Make a copy of the complaint and place it in the large envelope for the investigator to use as a working copy.
- F. Place the original complaint and a copy of the letter to

the complainant in the file folder for filing in the complaint file, which is to be maintained separately from the licensure files and certification files.

- IV. The Branch Head or her designee will assign complaints to staff for investigation. During periods of heavy work load, the Branch Head may request assistance from Health Care Facilities Branch (HCFB) staff to assure the 45-day deadline is met.
- A. Routinely, complaints will be scheduled for investigation in the order received.
 - B. Complaints requiring prompt attention, as noted above, will be investigated within two working days. These would include allegations which imply that there is an imminent threat to a patient's health, safety, or welfare.
 - C. Complaints will be investigated either by unannounced visits to the facility or through phone contact with the facility administrator. The Branch Head or her designee will decide whether a complaint will be investigated by phone or an onsite visit, based upon the type of investigation method required. An onsite visit will always be made when allegations require monitoring of employee performance or observation of identified conditions.
 - D. When a survey or onsite complaint investigation has been held at a facility within thirty days prior to the receipt of a complaint about that facility, another onsite visit will not be scheduled if allegations can be answered based on findings during the recent survey or investigation.

- E. Each investigation will be individually planned to assure that complete information is available for determining the validity of the complaint.
1. Information will be obtained from a variety of sources to determine consistency and accuracy.
 2. Methods will include such things as patient assessments, record reviews, monitoring of staff performance and interviews with patients, visitors and staff.
 3. Persons and agencies will be contacted as necessary to obtain needed information.
 4. All certification related complaints against skilled nursing facilities and/or intermediate care facilities will be investigated using the Long Term Care (LTC) Process as mandated by Federal Regulation 42 CFR 488.1100 (8)(2).

V. Onsite Investigations

- A. Onsite visits to nursing homes will be unannounced. Announced visits may be made to hospitals and other programs and agencies if this would not compromise the value or collection of relevant data.
- B. Staff assigned to do onsite investigations are responsible for planning strategies for conducting the investigation prior to the onsite visit.
- C. When two or more staff are assigned to an investigation, one person will be identified to serve as team leader. The team leader is responsible for the following:

1. Developing the investigation plan, using input from team members.
2. Meeting with team members prior to entering the facility to review the investigation plan and make assignments.
3. Conducting an entrance conference with the facility administrator (or person in charge in his absence) to explain the general nature of the allegations and to review the general plan for the investigation.
4. Holding a pre-exit conference with team members to share findings and make decisions about any actions to be taken.
5. Conducting an exit conference with the administrator at the conclusion of the investigation to review the specific allegations(s) and findings of the investigation. If additional data is needed and a final decision cannot be made prior to leaving the facility, the team leader will explain this to the administrator and that he will be notified of final decisions by phone.
6. Completing the complaint report, required letters, and associated paperwork.

VI. If state licensure violations are identified as a result of a complaint investigation, these are to be handled according to DFS licensure section policy. If federal deficiencies are identified, certification actions are to be initiated in accordance with the State Operations Manual.

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VII. Reports from referred complaints are reviewed by the Branch Head or her designee. If a report identifies possible violations of State or Federal requirements, or otherwise suggests a need for further investigation by the CIS, this will be scheduled.

VIII. From time to time, certain complaints may be referred for investigation by the office of the Governor, the Secretary, a legislator or from some other source that makes it necessary to give the complaint special handling. For such complaints, beside the usual processing procedures, the following additional guidelines shall be followed:

- A. The Branch Head shall insure that the Licensure Section Chief is aware of all complaints received through the offices of the Governor, the Secretary or a legislator.
- B. When investigations are complete, a report shall be made to the referring office advising of the findings and any actions that may be anticipated in the future. These reports shall be routed through the Section Office.
- C. In cases where the Governor or Secretary needs to respond directly to a complaint or referring legislator, a draft response shall be prepared and forwarded to the Section Office for review and final processing. Care shall be taken to insure that responses are timely and meet established deadlines.
- D. Any complaint received that appears to have the potential for becoming a sensitive issue shall be brought to the attention of the Section Chief and he shall be kept

VII. Following an investigation, the team leader or investigator will:

- A. Prepare a report which will include the allegations(s), summary of the investigation, conclusion(s), and action taken using the complaint investigation report form (attached). Following completion, reports will be given to the Branch Head or her designee for review and routing to the Licensure Section Chief prior to its being filed.
- B. Send a letter to the administrator within ten days of the investigation stating whether or not the complaint was substantiated.
 1. If recommendations were made, these are to be included in the letter.
 2. If deficiencies were cited, the DFS-4093 and instructions sheets and the HCFA 2567 are to accompany the letter.
 3. If administrative action is recommended, this is to be stated in the letter and that management action, if taken, will be sent in a separate mailing.
- C. Write a letter to the complainant to be sent within sixty days from the receipt of the complaint. This letter should include at a minimum:
 1. The date of the investigation.
 2. A summary of the investigation methods used.
 3. Whether the allegations were substantiated, no substantiated, or partially substantiated.

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informed of any unusual developments as the investigation proceeds.

Signature: Joan W. Smith
Title: Branch Head
Date: 2/13/90

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